

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

PATRICK M. BOOTH,

Plaintiff,

5:22-cv-1011 (BKS/ML)

v.

CITY OF WATERTOWN,
WATERTOWN POLICE DEPARTMENT,
DUSTIN C. SHAWCROSS, PEARCE
A. PARSONS, DAVID PAULSEN, and
CHARLES DONOGHUE,

Defendants.

Appearances:

Plaintiff pro se
Patrick M. Booth
Dexter, NY 13634

Hon. Brenda K. Sannes, Chief United States District Judge:

MEMORANDUM-DECISION AND ORDER

Plaintiff Patrick M. Booth commenced this proceeding under 42 U.S.C. § 1983, and sought leave to proceed *in forma pauperis* (“IFP”). (Dkt. Nos. 1, 2, 3). This matter was referred to United States Magistrate Judge Miroslav Lovric who, on February 7, 2023, issued a Decision and Order (“February Decision”) denying Plaintiff’s application to proceed IFP. (Dkt. No. 8). Magistrate Judge Lovric explained that Plaintiff’s IFP application was insufficient because Plaintiff had been released from custody after its filing and it did “not reflect his current post-release financial condition.” (*Id.* at 3). Although Magistrate Judge Lovric denied Plaintiff’s IFP application, he granted Plaintiff leave to renew and directed the Clerk to provide Plaintiff with an “IFP long form application.” (*Id.* at 3–4). Magistrate Judge Lovric advised Plaintiff that if he

wished “to proceed to proceed with this action, he must either (i) pay the \$402.00 filing fee, or (ii) submit a renewed IFP long form application detailing his current post-release financial condition within thirty (30) days from the date of the filing of this Decision and Order.” (*Id.* at 4). Magistrate Judge Lovric further advised Plaintiff that “[f]ailure to comply with this directive will result in the issuance of a report and recommendation to the assigned district judge that the action be dismissed.” (*Id.*). The February Decision and IFP long form application were mailed to Plaintiff at Elmira Correctional Facility, his last known place of incarceration, as well as to an address in Dexter, New York, which Plaintiff had indicated would be his mailing address following his release. (Dkt. Nos. 6, 8). The copies sent to Elmira Correctional Facility were returned as undeliverable; the Court received no indication that the copies sent to Dexter, New York were not received. (Dkt. No. 9).

On March 14, 2023, Magistrate Judge Lovric issued a Report-Recommendation recommending that Plaintiff’s Complaint be dismissed because Plaintiff, “[d]espite ample notice of the requirement that he either pay a statutory filing fee or submit a properly supported application for leave to proceed in forma pauperis . . . has failed to do either.” (Dkt. No. 10, at 1–2). Magistrate Judge Lovric further recommended that Plaintiff’s letter request that a lien be placed on two of the individual Defendants, be denied. (*Id.* at 2). Plaintiff was informed that he had fourteen days within which to file written objections to the report under 28 U.S.C. § 636(b)(1), and that the failure to object to the report within fourteen days would preclude appellate review. (*Id.* at 5). The Report-Recommendation was sent to Elmira Correctional Facility, but returned to the Court marked “Returned to Sender, Not Here, Released.” (Dkt. No. 11). As there was no indication on the docket that the Report-Recommendation had been sent to Plaintiff’s Dexter, New York address, on April 3, 2023, the Court directed the Clerk to mail the

Report-Recommendation to the Dexter, New York address, and provided Plaintiff an additional fourteen days to file objections, if any, to the Report-Recommendation. (Dkt. No. 12). No objections to the Report-Recommendation have been filed.

As no objection to the Report-Recommendation has been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee’s note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts the Report-Recommendation in its entirety.

For these reasons, it is hereby

ORDERED that Magistrate Judge Lovric’s Report-Recommendation (Dkt. No. 10) is **ADOPTED**; and it is further


ORDERED that Plaintiff’s Complaint (Dkt. No. 1) be **DISMISSED without prejudice**; and it is further

ORDERED that Plaintiff’s Letter Request (Dkt. No. 6) is **DENIED**; and it is further

ORDERED that the Clerk serve a copy of this Order on Plaintiff in accordance with the Local Rules and close this case.

IT IS SO ORDERED.

Dated: April 28, 2023
Syracuse, New York


Brenda K. Sannes
Chief U.S. District Judge